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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/603,871

06/25/2003

Per Westergaard

THOLAM P202US

7521

20210

7590

05/24/2006

DAVIS & BUJOLD, P.L.L.C.
FOURTH FLOOR
500 N. COMMERCIAL STREET
MANCHESTER, NH 03101-1151

EXAMINER

BASICHAS, ALFRED

ART UNIT

PAPER NUMBER

3749

DATE MAILED: 05/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/603,871	WESTERGAARD, PER	
	Examiner	Art Unit	
	Alfred Basichas	3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Laveau (3,648,714), which shows all of the claimed limitations. Laveau shows, among other things, a burner fuel mixer head I, comprising a primary housing 1 having a fuel/air mixing chamber 26 with a mixed fuel gas inlet 2,3, a combustion air inlet 4, and a mixed fuel/air outlet 26a communicating with the fuel/air mixing chamber, a secondary housing (see at least fig. 2) having a fuel mixing chamber with a pressurized fuel gas inlet 34,35 and a low pressure fuel gas inlet 34,35, the fuel mixing chamber of the secondary housing communicating with the mixed fuel gas inlet leading into the primary housing, a venturi throat 25 with converging sidewalls positioned in the mixed fuel gas inlet, a venturi nozzle 22 communicating with the pressurized fuel gas inlet, a first end of the venturi nozzle extending into the fuel mixing chamber in axial alignment with the venturi throat to form a venturi, such that the apparatus is capable of providing a pressurized flow of pressurized fuel gas through the venturi draws low pressure fuel gas from the

fuel mixing chamber of the secondary housing through the mixed fuel gas inlet into the fuel/air mixing chamber of the primary housing. Laveau further shows the venturi nozzle adjustable via a lug nut.

Response to Arguments

3. Applicants' arguments with regard to the rejected claims, filed May 2, 2006, have been considered, but are not deemed fully persuasive.

a. As regards applicant's assertion that Laveau fails to anticipate the claimed invention because one of the low pressure fuel mixtures is from a feedback source, it should be noted that the fact that Laveau includes structure in addition to the claimed invention does not preclude it from anticipating the claimed invention. In the absence of negative limitations or language requiring "consisting" of a particular element, Laveau clearly shows all of the "comprised" limitations recited in the claims. The term "comprising" in the claims requires that the anticipating reference include the claimed limitations, and not limiting to the recited structure as would be the case if the term "consisting" were to be used instead. Accordingly, the source of the fuel mixture is not relevant to the claimed invention.

b. As regards applicant's assertion that Laveau fails to anticipate the claimed invention because the reference fails to show a pressurized flow of pressurized fuel gas through a venturi drawing a low pressure fuel gas, Laveau clearly shows

a pressurized flow of pressurized fuel gas A through a venturi (see at least venturi 22/25, as shown in fig. 1) drawing a low pressure fuel gas A+B/B.

c. As regards applicant's assertion that Laveau fails to anticipate the claimed invention because the reference does not show a venturi, applicant's attention is directed to at least elements 22,25 as shown in fig. 1. Even without specific language to the fact, it would have been inherent to one of ordinary skill in the art that the shape of the elements in question clearly create a venturi effect, not to mention the flow entrainment of a lower pressure flow (A+B/B) by a higher pressure flow (A).

d. As regards applicant's assertion that Laveau fails to anticipate the claimed invention because the reference shows a device that is precisely metered, monitored and adjusted. Again, it should be noted that the fact that Laveau includes structure in addition to the claimed invention does not preclude it from anticipating the claimed invention (see paragraph (a) above).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Basicas whose telephone number is 571 272 4871. The examiner can normally be reached on Monday through Friday during regular business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on 571 272 4828. The fax phone numbers for the organization where this application or proceeding is assigned are 703 872 9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Tech Center telephone number is 571 272 3700.

May 17, 2006


Alfred Basicas
Primary Examiner